

City of Sandy Springs Board of Ethics Meeting held April 14, 2010.

Call to Order

Chairman Childs called the meeting to order at 9:03 a.m.

Roll call and establishment of quorum

City Clerk Michael Casey called the roll.

Board Members Present: Kirk Childs, Andrew Heyward, Charles Maddrey, Dick Isenberg, Ted Sandler, Stuart Steinmark **Absent:** Alternate Kevin King

Staff and Representatives Present: Michael Casey, Judge James Anderson III

Ruling on Quorum

Quorum was in place for meeting.

Approval of Meeting Agenda

Motion and Vote: Andy Heyward moved to approve the Agenda as submitted. Charles Maddrey seconded the motion. The motion carried unanimously.

Charles Maddrey stated that in the absence of a Board Member, the Chair has the option to select alternate number one to take that person's place for this meeting. Kirk Childs placed Ted Sandler as an active member for this meeting in the absence of Kevin King.

Approval of Board of Ethics meeting minutes

Motion and Vote: Charles Maddrey moved to approve the January 13, 2010, meeting minutes. Ted Sandler seconded the motion. The motion carried unanimously.

Old Business

There was no old business.

New Business

Swearing in of Stuart Steinmark

Judge James Anderson III administered the Oath of Office to the new alternate Board member, Stuart Steinmark. Judge Anderson then asked Mr. Steinmark to sign the Oath of Office.

Discuss distribution of informal opinion by City Attorney to the Municipal Judge

Chairman Kirk Childs stated he thinks the Board of Ethics needs to make a decision on whether they think informal opinions need to be disseminated. He received comments back from several Board

members and the consensus was they don't need to distribute this any further. He asked if there were any comments on the documents.

Charles Maddrey stated that within the Ordinance it doesn't state that the informal opinion of the City Attorney is binding or non-binding. He believes that it should be stated in the Ordinance. In the Ordinance it does state that the informal opinion of the Board of Ethics is non-binding. It seems to him that once you give an informal opinion to anyone, it should be non-binding. In the case of the municipal judge who asked an opinion, the judge might want to tell the other judges to get an opinion as well. An informal opinion to anyone is just to that person.

Chairman Childs stated he would read what former Chairman Glenn Moffett's recommendations are: "Number one, public servant request City Attorney for an informal opinion. Number two, City Attorney chooses to render such opinion and sends copy to public servant. Number three, City Attorney requires a forwarded copy of opinion to Ethics Board. Number four, Ethics Board then determines in consultation with the City Attorney's office whether or not to make the opinion available to any other person or group and under what possible restrictions. Such restrictions could mean that only an opinion should be disseminated that does not reveal the name of the requesting public servant; or the Board could decide not to disseminate the opinion at all or even decide the nature of the opinion should not be released to any other person or group that it might tend to hold someone up to public consent for ridicule as an extreme possibility. The Ethics Board should make these decisions after thoughtful consideration."

Ted Sandler stated it should be looked at on a case by case basis. Each fact pattern can be different. Ask yourself if this applies to a larger number of individuals or just the individual who requested the opinion to begin with. The Board needs to show discretion.

Stuart Steinmark suggested taking a middle ground. He thinks that if the Board of Ethics has a situation that could be of interest to the public and could affect others in the future, then with an agreement that the memo itself should not be further distributed, possibly another function could be created by the Board to publish the document. How many judges are there in the City of Sandy Springs? If there are three, four or five judges, it could be sufficiently anonymous to do something like that. He suggested considering establishing a process for disseminating this information.

Ted Sandler suggested keeping a log of opinions rendered for future reference. He had in mind publishing the questions on a website, perhaps in an anonymous generic way.

Charles Maddrey stated formal opinions are thought through and become binding on the Board. An informal opinion is just what it states, an informal opinion. He doesn't agree that the Board should disseminate informal opinions publicly.

Ted Sandler asked what the difference is when a formal opinion is rendered versus an informal opinion.

Charles Maddrey stated an informal opinion is not binding. The informal opinion is what the City Attorney or the Board thinks. With a formal opinion, the person asking for it goes through due process; having witnesses or whatever is wanted. When you give a formal opinion, it's binding. All the facts aren't there in an informal opinion. In a formal opinion all the people involved should be present. In this case with Judge Anderson, it's not binding on the Board at all.

Ted Sandler asked if there is a process where the Board can take an informal opinion issued by the City Attorney, review it, and based on what is observed in his analysis, say it's pretty good information and it should be placed on our website as a guidance document. It's not binding, just a guidance document. Is there a way that the information from informal opinions can be made public knowledge?

Charles Maddrey stated from his understanding the City Attorney, outside of the Board of Ethics, can be asked an informal opinion. That's why he's reluctant to have the Board of Ethics disseminate an informal opinion that's not from the Board.

Ted Sandler stated he would suggest for generic purposes that if there is a process available to the Board, they could always take an informal opinion, and if they were comfortable with the circumstances and the opinion, then they could adopt it. He would like put it out there for reference, because it may have merit for others.

Charles Maddrey stated the ordinance isn't clear that they can adopt it themselves. He doesn't see why they wouldn't be able to. The Board of Ethics has the opportunity and the obligation, anytime they see an ethics issue, to address it.

Dick Isenberg stated if Wendell hadn't given them the information, they wouldn't be discussing it now. They would know nothing about the situation.

Charles Maddrey stated the Ordinance requires the City Attorney to give the Board this information.

There was additional discussion among the Board Members on this matter.

Dick Isenberg asked would the Board be better off doing nothing on this today and waiting on the next meeting to have Wendell Willard present.

Charles Maddrey stated he believes it would be best to wait and have the opinion of the City Attorney.

Motion and Vote: Dick Isenberg made a motion to table this item until the next meeting. Charles Maddrey seconded the motion. The motion carried unanimously.

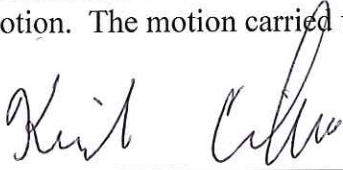
Kirk Childs stated he has a letter from Mayor Galambos written to Kevin King. It suggests that due to Glenn Moffett's retirement, Kevin King should move up to become a full member. Going back through the minutes, he believes this is the third meeting Kevin King has missed. He believes the Ordinance states that if a member misses two consecutive meetings, that as the Board they should discuss whether the member should continue on as a member. He has attempted to contact Kevin King by email. Stuart Steinmark suggested trying to contact Kevin King by certified mail, return receipt, and using telephone. Kirk Childs will follow these suggestions and if needed, the Board can discuss this again at the next meeting.

Stuart Steinmark gave some background information about himself, since he is a new member. He stated is from New Jersey and attended college in Pennsylvania. He studied engineering at first and then decided to attend law school. He was supposed to report to active duty in the Army. He was ROTC in college and received a commission, but got a deferment while in law school. After law school he moved to Washington, D.C. and received a job with the Internal Revenue Service. He was then reexamined by the Army doctors in 1967, and even though he couldn't pass a draft physical because of his knees, they retained him because he had a commission. He was a procurement officer and his first assignment was in

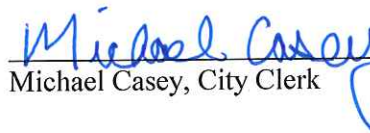
New Jersey. He did that for a year then was sent to Vietnam. He stated he's also a CPA. After he left the IRS, his family moved to Atlanta to be closer to his wife's family. They moved to Miami, FL and then moved back to Washington, D.C. They ended up moving back to Atlanta to be part of the family business then retired in 2005. In the family business he was the Chief Financial Officer and it worked out quite well.

Adjournment

Motion and Vote: Charles Maddrey moved to adjourn the meeting. Dick Isenberg seconded the motion. The motion carried unanimously. The meeting adjourned at 9:57 a.m.



Kirk Childs, Chairman



Michael Casey, City Clerk